

RECORDATION NO. 26054-A FILED

APR 21 '06

3-42 PM

SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD
ATTORNEYS AT LAW
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OF COUNSEL
URBAN A. LESTER

April 21, 2006

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of April 21, 2006, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Schedule #4 previously filed with the Board under Recordation Number 26054.

The names and addresses of the parties to the enclosed document are:

Seller: Wells Fargo Equipment Finance, Inc.
d/b/a/ Midwest Railcar Capital
Equipment Corporation
4949 Autumn Oaks Drive
Maryville IL 62062

Buyer: Infinity Rail, LLC,
817 West Peachtree Street, Suite M110
Atlanta, Georgia 30308

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ASSIGNMENT AND ASSUMPTION AGREEMENT SURFACE TRANSPORTATION BOARD

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of April 21, 2006 (this "Agreement"), is between Wells Fargo Equipment Finance, Inc. d/b/a Midwest Railcar Capital Equipment Company, a Minnesota corporation (the "Seller") and Infinity Rail, LLC a Georgia limited liability company (the "Buyer").

RECITALS

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of April 21, 2006 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

AGREEMENT

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** Effective as to each unit of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such unit and assigns to the Buyer all of the Seller's rights and obligations, to the extent arising on or after the Closing Date, under the Lease and, solely as it pertains to the Lease, the Master Lease (collectively, the "Operative Agreements") as they relate to each unit. Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any right to indemnification for tax or other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date, as specified in the Purchase Agreement.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller accruing on or after the Closing Date under, and agrees to be bound to the same extent as the Seller by all the terms of, the Operative Agreements. Effective on and after the Closing Date (except with respect to obligations not assumed pursuant to the preceding sentence), the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Operative Agreements and each reference in the Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller is released of all obligations accruing under the Operative Agreements on or after the Closing Date.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

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4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: the bill of sale in the form of Exhibit I hereto.

Closing Date: the date of the Bill of Sale.

Equipment: the units of equipment listed on Schedule 1 to the Bill of Sale.

Lease: that certain Schedule #4 to Master Lease Agreement made as of December 19, 2005 between Wells Fargo Equipment Finance, Inc. d/b/a Midwest Railcar Capital Equipment as Lessor and Public Service Company of Colorado as Lessee.

Lessee: Public Service Company of Colorado

Master Lease: that certain Master Lease Agreement made as of December 19, 2005 between Wells Fargo Equipment Finance, Inc. d/b/a Midwest Railcar Capital Equipment as Lessor and Public Service Company of Colorado as Lessee.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Operative Agreements.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of Minnesota, without giving effect to its conflict of law rules.

10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

**WELLS FARGO EQUIPMENT FINANCE, INC.
D/B/A MIDWEST RAILCAR CAPITAL
EQUIPMENT COMPANY**

By: *[Signature]*
Name: *William P. Morgan*
Title: *AVP*

INFINITY RAIL, LLC

By Infinity Asset Management, LLC as Manager

By: _____
Jeffrey E. Edelman, Vice President

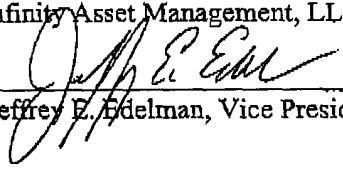
IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

**WELLS FARGO EQUIPMENT FINANCE, INC.
D/B/A MIDWEST RAILCAR CAPITAL
EQUIPMENT COMPANY**

By: _____
Name: _____
Title: _____

INFINITY RAIL, LLC

By Infinity Asset Management, LLC as Manager

By:  _____
Jeffrey E. Edelman, Vice President

State of Minnesota)
County of Hennepin)

On this, the 19th day of April, 2006, before me, a Notary Public in and for said County and State, personally appeared Jacqueline P. Barragan, AVP of Wells Fargo Equipment Finance, Inc., who acknowledged ^{per} himself to be a duly authorized officer of Wells Fargo Equipment Finance, Inc., and that, as such officer, being authorized to do so, she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.



Patti H. DeYoung
Name: Patti H. DeYoung
Notary Public

My Commission Expires: 1/31/2010
Residing in: Minneapolis, MN

State of Georgia)
County of DeKalb)

On this, the 19th day of April, 2006, before me, a Notary Public with authority to act in any county in the State of Georgia, personally appeared Jeffrey E. Edelman, a Vice President of Infinity Asset Management, LLC, the Manager of Infinity Rail, LLC, who acknowledged himself to be a duly authorized officer of Infinity Asset Management, LLC, the Manager of Infinity Rail, LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Stephanie Cassamas
Name: Stephanie Cassamas
Notary Public

My Commission Expires: _____
Residing in: _____

Notary Public, DeKalb County, Georgia
My Commission Expires Aug. 2, 2009

EXHIBIT I
to Assignment and Assumption Agreement

FORM OF BILL OF SALE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Wells Fargo Equipment Finance, Inc. d/b/a Midwest Railcar Capital Equipment Company ("Seller"), does hereby sell, transfer and assign to Infinity Rail, LLC ("Buyer") all of Seller's rights, title and interest in and to the equipment described in Schedule 1 hereto, subject to the terms and conditions of the Purchase Agreement, dated as of April 21, 2006, between Seller and Buyer, and the Assignment and Assumption Agreement, dated April 21, 2006, between Seller and Buyer.

**WELLS FARGO EQUIPMENT
FINANCE, INC. D/B/A MIDWEST
RAILCAR CAPITAL EQUIPMENT
COMPANY**

By: _____
Name: _____
Title: _____
Date: _____

Schedule 1
to Bill of Sale

Description of Railcars:

One Hundred and Twenty Nine (129) 4000 cubic ft., 100-ton tub steel gondolas built originally in 1985 by Bethlehem Steel with the following reporting marks and numbers:

PSCX 743 through 873, not inclusive of the following car numbers: 743, 795

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: _____

4/20/06



Robert W. Alvord